

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

	)	
BETTY ANNE WATERS,	)	
Plaintiff	)	
	)	
v.	)	Civil Action No. 04-10521-GAO
	)	
TOWN OF AYER, et al.	)	
Defendants	)	
	)	

## **THE PARTIES' JOINT MOTION TO AMEND SCHEDULING ORDER**

Counsel for the plaintiff and counsel for the defendants respectfully and jointly move this Court to amend the scheduling order in this case. In support thereof, the parties state that they have diligently pursued discovery, but were hampered by events outside of their control. On March 15, 2005, plaintiff served subpoenas for documents on two non-parties, the Office of the Attorney General (“A.G.”), and the Massachusetts State Police. The A.G. filed a motion to quash on April 29, 2005, and plaintiff filed a memorandum in opposition to the motion to quash on May 16, 2005. Defendants also filed an opposition to the motion to quash on July 8, 2005. On August 1, 2005, Judge George A. O’Toole referred the case to Magistrate Judge Judith G. Dein. After extensive discussions with counsel for the State Police, and after having granted multiple extensions to comply with the subpoena, the State Police indicated their refusal to comply with the subpoena absent a court order. Plaintiff then filed a motion to compel production from the State Police with the Court on August 28, 2005, and served it in hand on September 8, 2005, in time to be heard at the hearing on the A.G.’s motion to quash, previously set for September 13, 2005. Defendants also filed a motion to compel production from the State Police on September 8, 2005.

After a hearing on September 13, 2005, the Court (Magistrate Judge Dein) ruled on these motions on September 15, 2005, compelling the non-parties to produce most of the requested

documents for the parties' review. The Office of the Attorney General ("A.G.") recently provided documents and a privilege log to the parties for their review. Plaintiff's counsel recently informed the A.G. which documents they believe should be produced, and it is not yet known whether further action from the Court will be required. The current discovery schedule provides for fact discovery to be completed by December 2, 2005. Even if the A.G. were to agree to all of plaintiff's requests in short order, this would not allow sufficient time to complete all depositions of fact witnesses by the current deadline, which is less than one month away. Counsel for the plaintiff and counsel for defendants conferred to propose an amended discovery schedule and have agreed on the following (essentially, a six-month extension):

I. Proposed Discovery Plan

- a. Fact discovery to be completed by June 2, 2006;
- b. Plaintiff's expert disclosures by August 4, 2006;
- c. Defendants' expert disclosures by September 8, 2006;
- d. Expert depositions by October 6, 2006;

II. Motion Schedule

All dispositive motions will be served no later than December 8, 2006 with responses due by January 19, 2007, and replies due by February 9, 2007. Additional discovery motions, to the extent that they are necessary, will be filed prior to the close of discovery. Trial motions are to be served not less than seven (7) days prior to trial, except for good cause.

III. Trial Schedule

Trial will tentatively be scheduled for March or April 2007.

WHEREFORE counsel for the plaintiff and counsel for the defendants request that this Court amend the discovery schedule as requested.

RESPECTFULLY SUBMITTED,

FOR THE PLAINTIFF:

FOR THE DEFENDANTS:

/s/ Jennifer L. Bills

/s/ Jeffrey Blake /JLB

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### **CERTIFICATE OF SERVICE**

I certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail.

Date: November 4, 2005 /s/ Jennifer L. Bills

### **L.R. 37 CERTIFICATE**

I hereby certify that the provisions of L.R. 37 have been complied with.

Date: November 4, 2005 /s/ Jennifer L. Bills

### **CERTIFICATE OF CONFERENCE PURSUANT TO L.R. 7.1(A)(2)**

Pursuant to L.R. 7.1(A)(2), I certify that the parties have conferred in good faith and resolved the issue that is the subject of this motion.

Date: November 4, 2005 /s/ Jennifer L. Bills